

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FTX TRADING LTD., *et al.*¹

Debtors.

Case No. 22-11068 (JTD)

Chapter 11

(Jointly Administered)

Related Docket No. 3291

**STATEMENT CONCERNING THE
SETTLEMENT AND PLAN SUPPORT AGREEMENT**

The Moskowitz Law Firm, PLLC and Boies Schiller Flexner LLP, solely in their capacity as Plaintiffs' Co-Lead Counsel in *In re FTX Cryptocurrency Exchange Collapse Litigation*, MDL NO. 3076, Case No. 23-md-03076 (together, "FTX MDL Co-Lead Counsel"), pending in the United States District Court for the Southern District of Florida (the "FTX MDL"),² submit this statement in connection with the *Settlement and Plan Support Agreement* [Docket No. 3291] (the "PSA")³ filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors").

On October 16, 2023, the Debtors filed that certain PSA by and between the Debtors, the Official Committee of Unsecured Creditors, the Ad Hoc Committee of Non-US Customers of FTX.com, and the putative class representatives in the adversary proceeding of *Onusz, et al. v. West Real Shires Inc., et al.*, Case No. 22-50513 (Bankr. D. Del.). The PSA, along with the

¹ The last four digits of FTX Trading Ltd.'s and Alameda Research LLC's tax identification number are 3288 and 4063, respectively. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://cases.ra.kroll.com/FTX>.

² The plaintiffs in the FTX MDL shall be referred to herein as the "FTX MDL Plaintiffs."

³ A capitalized term used but not defined herein shall have the meaning ascribed to it in the PSA.

Draft Plan of Reorganization – Term Sheet, attached thereto as Exhibit A (the “Plan Term Sheet”), purports to create a proposed framework for the resolution of FTX customer claims and related Customer Property Actions.⁴

As the Debtors are aware, for over a year the FTX MDL Plaintiffs have actively pursued claims against non-debtor third parties to make FTX customers whole. In fact, the FTX MDL now includes thirty-three (33) actions against non-debtor defendants (collectively, the “MDL Defendants”), which include but are not limited to: Temasek Holdings (Private) Limited, Tiger Global Management, LLC, Golden State Warriors LLC, Thoma Bravo L.P., Paradigm Operations LP, Sequoia Capital Operations LLC, Deltec Bank and Trust Company Limited, Softbank Group Corp., Prager Metis CPAs, LLC, Armanino, LLP, Major League Baseball, Mercedes-Benz Grand Prix Limited, Samuel Bankman-Fried, Tom Brady, Stephen Curry, Shaquille O’Neal, and Shohei Ohtani.

The Plan Term Sheet contains many troubling features and leaves critical questions unanswered. For instance, and by way of example only, the Plan Term Sheet contemplates that the Plan will contain coercive third-party releases (*i.e.*, releases of direct claims against non-debtors). Specifically, to participate in the Preference Settlement, the Plan Term Sheet states that an FTX customer must not opt-out of the Plan’s releases. Thus, according to the Plan Term Sheet, non-debtor FTX customers will be required to release their own direct claims against non-debtor third parties selected by the Debtors. That is inappropriate and the FTX MDL Plaintiffs reserve all rights to object to the Plan on that basis (and any other basis), including to the extent

⁴ Although the PSA purports to resolve the Customer Property Actions, the underlying claims – that FTX.com customer deposits are not property of the estate – may be brought by other customers during the pendency of these chapter 11 cases and the FTX MDL Co-Lead Counsel are evaluating whether to independently assert such claims on behalf of all FTX.com customers.

the Plan requires any FTX MDL Plaintiffs to release any direct claims against any MDL Defendant(s).

Dated: December 5, 2023

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